

Applic. No. 10/683,729
Amdt. dated January 19, 2007
Reply to Office action of November 22, 2006

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Remarks/Arguments:

Reconsideration of the application is requested.

Claims 1-4, 6-15, and 17-23 remain in the application. Claims 5 and 16 were previously cancelled.

In item 5 on page 3 of the Office action, claims 1, 2, 4, 6, 7, 11-15, 17, 18, and 21-23 have been rejected as being obvious over Blair et al. (U.S. Patent No. 6,502,265 B2) (hereinafter "Blair") in view of Jacobson et al. (U.S. Patent No. 6,445,489 B1) (hereinafter "Jacobson") and further in view of Cominskey et al. (U.S. Patent No. 6,473,072 B1) (hereinafter "Cominskey") under 35 U.S.C. § 103.

As will be explained below, it is believed that the claims were patentable over the cited art in their original form and the claims have, therefore, not been amended to overcome the references.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful.

Claims 1, 13, and 23 call for, *inter alia*:

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an operating element projecting through the electronic paper.

The Blair reference discloses an interactive control system for a laundry appliance. Blair discloses a display (10) through which the user controls and programs the washing appliance (1). The display (10) includes a plurality of selectable control areas or zones (15) which can be accessed by a user to program and operate the washing machine (1) (column 3; lines 42-49).

On page two of the Office action, the Examiner alleges that Blair discloses "the operating element projecting through the LCD." Applicants respectfully disagree with the Examiner. More specifically, the instant application discloses that an operating element projects through the electronic paper. As seen from page 2 of the specification the instant application it is disclosed that the operating element is provided as a switch such as rotary switch. The operating element is not merely an area on a portion of a display. In the present invention, the operating element is a mechanical element which physically projects through the electronic paper. As mentioned in the previous response the term "projects through" is a translation of the German word "durchbrochen" which literally translates to "broken through". Therefore, the

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limitation that the operating element projects through the electronic paper can only can only be understood as a mechanical switch projects or breaks through the electronic paper.

Furthermore, applicants fully acknowledge that limitations from the specification cannot be read into the claims. However, the claims must be interpreted in view of the specification. Based on this fact, the operating element is a mechanical element such as a rotary switch, which projects through the electronic paper. The limitation cannot be considered to be an area of an electronic display, which acts as a control zone. Accordingly, the Blair reference does not disclose an operating element that projects through the LCD screen. Therefore, it is respectfully noted that the Examiner's allegation that Blair discloses that an operating element projects through the LCD, is not accurate.

It is a requirement for a *prima facie* case of obviousness, that the prior art references must teach or suggest all the claim limitations.

The references do not show or suggest an operating element projecting through the electronic paper, as recited in claim 1 of the instant application.

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The Blair reference discloses that an LCD has selectable control areas or zones. Blair does not disclose that the control areas project through the LCD. This is contrary to the invention of the instant application as claimed, in which an operating element projects through the electronic paper.

Neither Jacobsen nor Cominskey make up for the deficiencies of Blair.

The references applied by the Examiner do not teach or suggest all the claim limitations. Therefore, it is believed that the Examiner has not produced a *prima facie* case of obviousness.

Moreover, applicants respectfully believe that any teaching, suggestion, or incentive possibly derived from the prior art is only present with hindsight judgment in view of the instant application. "It is impermissible, however, simply to engage in a hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from references to fill the gaps. . . . The references themselves must provide some teaching whereby the applicant's combination would have been obvious." In re Gorman, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991) (emphasis added). Here, no such teaching is present in the cited references.

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Since claims 1 and 13 are believed to be allowable, dependent claims 2, 4, 6, 7, 11-12, 14-15, 17, 18, and 21-22 are believed to be allowable as well.

In item 6 on page 6 of the Office action, claims 3, 8, 9, 10, and 19-20 have been rejected as being obvious over Blair (U.S. Patent No. 6,502,265 B2) in view of Jacobson (U.S. Patent No. 6,445,489 B1) and Cominskey (U.S. Patent No. 6,473,072 B1) and further in view of Aisa (U.S. Patent No. 6,873,876 B1) under 35 U.S.C. § 103. Aisa does not make up for the deficiencies of Blair, Jacobson, and Cominskey. Since claims 1 and 13 are believed to be allowable, dependent claims 3, 8, 9, 10, and 19-20 are believed to be allowable as well.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claims 1, 13, or 23. Claims 1, 13, and 23 are, therefore, believed to be patentable over the art and since all of the dependent claims are ultimately dependent on claims 1 or 13, they are believed to be patentable as well.

In view of the foregoing, reconsideration and allowance of claims 1-4, 6-15, and 17-23 are solicited.

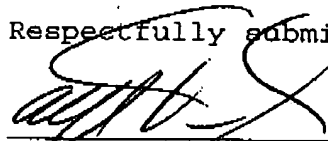
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In the event the Examiner should still find any of the claims to be unpatentable, counsel respectfully requests a telephone call so that, if possible, patentable language can be worked out.

If an extension of time for this paper is required, petition for extension is herewith made.

Please charge any other fees which might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner Greenberg Stemer LLP, No. 12-1099.

Respectfully submitted,



For Applicant(s)

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